

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

October 18, 1994

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IN REPLY REFER TO:

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OCT 18 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Clairborne Pell
U.S. Senator
418 Federal Courthouse Bldg.
One Exchange Terrace
Providence, RI 02903

DOCKET FILE COPY ORIGINAL

Dear Senator Pell:

This letter responds to your correspondence on behalf of Robert L. Wyss regarding charges on his telephone bill and relating to information services provided on 800 numbers. Your letter, as well as the complaint of your constituent, has been referred to the Enforcement Division of the Common Carrier Bureau for review. The Enforcement Division will communicate with your constituent upon completion of its review.

The Telephone Disclosure and Dispute Resolution Act (TDDRA) was enacted by Congress in 1992 and required both the Federal Communications Commission and the Federal Trade Commission (FTC) to adopt rules governing the provision of pay-per-call services. Under the TDDRA, the FCC has jurisdiction over the telecommunications carriers involved in the transmission and billing of the telephone calls, while the Federal Trade Commission has jurisdiction over the information service companies themselves.

The TDDRA generally required pay-per-call services to be provided on 900 telephone numbers and generally prohibited the provision of these services on 800 numbers, except in instances where the caller has entered into a presubscription agreement or comparable arrangement with the information service provider. Pursuant to the Commission's rules, which became effective on September 24, 1993, a presubscription agreement entails a formal contractual understanding whereby the consumer is provided clearly and conspicuously all terms and conditions associated with the use of the service and affirmatively agrees to abide by them.

The Commission has received numerous complaints similar to those described by your constituent. These complaints are processed by the Enforcement Division of the Common Carrier Bureau by serving a copy of the complaint upon the telecommunication carriers involved, who must generally respond in writing within 30 days. Beyond reviewing these

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complaints and pursuing appropriate action to resolve them, the Commission has undertaken several efforts. First, Common Carrier Bureau staff has met with the carriers that provide the billing service for calls to 800 numbers as well as interexchange carriers who provide the 800 number transport to emphasize their obligations under the TDDRA and the rules of the Commission. Secondly, because the increase in the number of complaints has been so significant, we have started an investigation of these practices, with special focus on whether any companies have attempted to evade or violate our rules. Additionally, as part of the effort to make clear the carriers' responsibilities under the law, the Common Carrier Bureau has recently issued a ruling holding that the information provider's receipt of the originating telephone number, a practice that was serving as the premise of some charges, does not in itself constitute a presubscription agreement.

Moreover, on August 2, 1994, the Commission instituted a Notice of Proposed Rulemaking seeking to strengthen Commission rules to prevent abusive and unlawful practices under the TDDRA. Specifically, the Commission has sought public comment on a proposal to require that a presubscription agreement be established only with a legally competent individual and executed in writing, and that common carriers obtain evidence of the written agreement before issuing a telephone bill that contains charges for presubscribed information services. Under the proposed rules, these telephone bills could be addressed only to the individual who actually entered into the presubscription arrangement, not to the person or company whose telephone was used to place the call. The Commission has tentatively concluded that this and other proposed changes would significantly assist in eliminating the source of many consumer complaints. Enclosed is a summary of the Commission's action in this regard.

We appreciate receiving your correspondence. Please call upon us if we can provide any additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kathleen M.H. Wallman". The signature is fluid and cursive, with the first name "Kathleen" being more prominent.

Kathleen M.H. Wallman
Chief
Common Carrier Bureau

Enclosure

CLAIBORNE PELL
RHODE ISLAND

United States Senate

WASHINGTON, DC 20510-3901

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418 Federal Courthouse Bldg.
One Exchange Terrace
Providence, RI 02903
August 22, 1994

Mr. Robert Spangler
Director, Legislative Affairs
Federal Communications Comm.
1919 M Street, Rm. 808
Washington, DC 20554

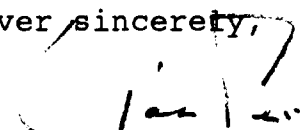
Dear Mr. Spangler:

I am writing on behalf of Robert L. Wyss of 62 Waldron Avenue, Cranston, RI 02910, who is having difficulties with charges from InfoAccess.

Enclosed is a copy of Mr. Wyss' letter to me as well as a response from the Rhode Island Attorney General Jeffrey Pine for your review.

Any assistance you may be able to provide regarding this matter would be greatly appreciated as well as the benefit of your comments concerning a possible solution to this problem.

Warm regards.

Ever sincerely,

Claiborne Pell

Enclosure

if they stand by the bill, then NYNEX has no choice but to continue to press for payment. She also says the repair division will check to see if there is a crossed line and someone is gaining access to our line.

6/29/94 3:30 p.m. -- I call the Rhode Island Attorney General consumer division. They report they have received numerous complaints about Info Access. They have limited jurisdiction, but they are logging all complaints about Info Access. They also say they will send me a complaint form and they ask that I fill it out and return it. They urge me to call NYNEX and the Rhode Island Public Utility Commission Consumer Affairs Office.

6/29/94 3:45 p.m. -- I call the Rhode Island PUC Consumer Affairs office. The woman answering says I should call NYNEX about any complaints about Info Access. I said I have already done that, but the Attorney General's office suggested I call the PUC also. She says they should not have done that. The PUC has no jurisdiction, only the Federal Communication Commission. My complaint is with NYNEX.

6/29/94 3:50 p.m. -- I call Anthony Pagano, chief of the RIPUC Consumer Affairs Office. I know Mr. Pagano through professional contacts. I tell Mr. Pagano I am calling as a private citizen. I am outraged that the PUC at the very least is not keeping a log of complaints involving Info Access. He says that his office has been innudated with complaints about Info Access. He says NYNEX has agreed to stop billing for Info Access, and to adjust any current charges, and that is why callers are being referred to NYNEX. I tell him that is not what NYNEX, or the representative in his office, told me. He says he will check.

6/29/94 4:15 p.m. -- The NYNEX repair office calls to report they checked the phone line, and it is not crossed.

62 Waldron Avenue
Cranston, Rhode Island 02910
July 7, 1994

Craig Dennis
Info Access
527 Third Avenue
PO Box 327
New York, NY 10016

Dear Sir:

I am strongly protesting your posting of 21 charges for 800 telephone services totaling \$607.19 and I demand that you remove them from my NYNEX telephone bill. I have consulted with the three other family members who live here and all report that they did not make any of these telephone calls.

Here are some other facts to consider:

1) Everyone was either asleep or not at home when these calls were made.

Friday Feb. 11, 10:22 a.m. - No one home. Everyone was either at work or at school.

Monday Feb. 14 2:34 p.m. to 2:44 p.m. - No one home.

Wednesday, Feb. 16, 4:29 p.m. - No one home. Three of us were being driven by the fourth family member to the Providence, R.I. airport to catch USAir Flight 351, departing at 5:55 p.m.

Thursday, Feb. 17 2:05 a.m. - One person home, asleep.

Thursday, March 3, 11:07 p.m. - All four family members home - asleep.

Wednesday, March 23, 10:09 p.m. to 10:27 p.m. - All four family members home - asleep.

Friday, April 8, 12:15 a.m. - All four family members home - asleep.

2) The charges are not only false, in many cases they are technically impossible.

Thursday, Feb. 17, a call was made at 1:37 lasting 2 minutes and 51 seconds. The next call was made at 1:38. Time does not work like this.

Other calls were made at 1:40, lasting 1:38; 1:41, lasting 1:24, 1:42, lasting 1:51, and 1:42, lasting 3:09. Do the math, this is physically impossible.

Wednesday, March 23, a call was made at 10:11 p.m. lasting 9 minutes and 18 seconds. The next call was posted at 10:11 p.m., it lasted 1:44. Another call at 10:13 p.m., lasting 1:41.

3) InfoAccess provides misleading information to consumers.

On April 27, 1994 a representative of your company, Nadine Hoyt, informed me that all charges would be removed from my telephone bill and further communication would be made between me and the telephone entertainment providers. She said the charges WOULD BE REMOVED IN FOUR TO SIX WEEKS. It never happened.

On June 28, 1994, Maria Cook, a representative of your company, stated there had been a misunderstanding and that Info Access had no intentions of removing the charges. If this is true, I was given false information.

4) InfoAccess uses an automatic answering system designed to evade providing information which hangs up on callers before they reach a company representative.

On April 27, 1994 I was on hold for 20 minutes before reaching a company representative.

On June 27, at 3:35 p.m. I call InfoAccess. After 28 minutes, the system disconnects me.

On June 28, I was on hold for about 20 minutes.

For all of the above reasons, I demand that you remove the charges that have already been assessed against me, along with any future fraudulent billings. You should also be aware that I am making this information known to NYNEX, the Rhode Island Public Utilities Commission Chairman and staff, the Rhode Island Attorney General, the five members of the Federal Communications Commission and their staff and my elected Congressional representatives.

I await your response.

Sincerely,

Robert L. Wyss



INFOACCS PAGE 1 OF 1

02910
CCR16

IF YOU HAVE QUESTIONS ABOUT
THE INFO ACCESS, INCORPORATED
PORTION OF YOUR BILL PLEASE
CALL 1 800 645-8830

ACCOUNT NO. 401 467-4389 314 005 6 R68

BILLING PERIOD: MAY 17-JUNE 16, 1994

Itemization of Account

New Charges

► Calling Services

• ITEMIZED CALLS

NO.	DATE	TIME	PLACE	AREA-NUMBER	*	MIN:SEC	AMOUNT
1.	MAR 3	1107PM	COMMFONE P	AM 800 374-6100	ND	11:01	54.45
2.	MAR 23	1009PM	BAL DUE M	AY 800 374-6100	ED	1:32	28.50
3.	MAR 23	1011PM	NETWORK C	LS 800 374-6100	ED	9:18	30.00
4.	MAR 23	1011PM	AMERCALL P	AD 800 374-6100	ED	1:44	4.95
5.	MAR 23	1013PM	AMERCALL P	AD 800 374-6100	ED	1:41	4.95
6.	MAR 23	1014PM	DIR ASST CHG	809 555-1212	ED	1:45	11.85
7.	MAR 23	1017PM	TALKNET P	AT 800 374-6100	ED	6:15	29.70
8.	MAR 23	1022PM	DISOCALL P	DI 800 374-6100	ED	8:18	44.55
9.	APR 8	1215AM	COMMFONE P	AM 800 237-4409	ND	1:54	4.95

* ED EVENING DIAL

ND NIGHT/WEEKEND DIAL

TOTAL OF CALLING SERVICES 213.90

► Rhode Island Gross Receipts Tax Surcharge (6.00%) 12.83

► Total Tax—FEDERAL 6.80 STATE 15.87 22.67

TOTAL NEW CHARGES FOR INFO ACCESS, INCORPORATED 249.40

This portion of your bill is provided as a service to INFOACCS.
There is no connection between NYNEX and INFOACCS.

Consumer Warning!

Page 2 of 2:

**Attorney General's Office Advises Consumers
to double check billings**

"Consumers should double check their billings since January of 1994. They should pay particular attention to billings from a Info Access," Christine Jabour, an Assistant Attorney General and Chief of the Attorney General's Consumer Protection Unit said. "If they dispute the billings or question the calls, they should first attempt to contact Info Access at 1-800-645-8830 (this call is free). If they are unable to contact Info Access or resolve the dispute with Info Access, they should call NYNEX who has acted as the billing agent for Info Access in the cases brought to the attention of the Attorney General's office," Jabour added.

"We have received more than 20 complaints from Rhode Island consumers in less than five (5) days. We believe that Info Access is based in New York City. We have contacted the New York Department of Attorney General and they have indicated that they are receiving similiar complaints from New York consumers regarding Info Access billings," Assistant Attorney General Jabour said.